

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

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**WARDS CORNER BEAUTY ACADEMY,**

Plaintiff,

v.

**NATIONAL ACCREDITING COMMISSION  
OF CAREER ARTS & SCIENCES**

Defendant.

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**Civil Action No: 2:16-cv-639**

**ORDER**

This matter is before the Court on Defendant National Accrediting Commission of Career Arts & Sciences' ("Defendant") Consent Motion to Seal Exhibits 1, 2, 6, 7, & 8 filed on October 20, 2017 ("Motion to Seal"). ECF No. 117. Defendant included a Notice to the Public of Filing the Motion to Seal, ECF No. 120, a Notice of Submission of Sealed Exhibits, ECF No. 121, the sealed exhibits, ECF No. 119, attaches. 1-6, a Memorandum in Support of the Motion to Seal, ECF No. 118, and a proposed order, ECF No. 117, attach. 1. Plaintiff Wards Corner Beauty Academy ("Plaintiff") did not file any documents in response to this motion. This matter was referred to the undersigned United States Magistrate Judge on October 30, 2017. *See* 28 U.S.C. §§ 636(b)(1)(B); Fed. R. Civ. P. 72(b); E.D. Va. Local Civ. R. 72.

Although Defendant filed the Motion, the interests ostensibly protected are the Plaintiff's as it is Plaintiff's designation of the material as "CONFIDENTIAL" that Defendant feels compelled to protect. Specifically, Defendant seeks to file certain exhibits under seal offered in support of a Memorandum accompanying Defendant's Motion to Exclude Testimony of Plaintiff's Expert Witness. ECF Nos. 117-118. Defendant's request is based on the fact that

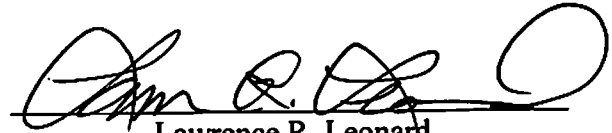
Plaintiff designated these documents as “CONFIDENTIAL” when they were submitted to Defendant. The exhibits all purport to contain proprietary information. Exhibit 1 is a copy of the expert witness report of Plaintiff’s damages expert, Luther Mack Brown (“Brown”); Exhibit 2 is the deposition transcript of Brown; Exhibit 6 is the Rebuttal Report to Brown’s report; Exhibit 7 contains enrollment numbers and the revenue generated by such enrollment in Plaintiff’s school; Exhibit 8 is a student enrollment list; and Exhibit 9 is Plaintiff’s Statement of Income for the years 2015-2017, as well as a breakdown of operating expenses. ECF No. 119, attachs. 1-6. Plaintiff designated this material as confidential, thus, Plaintiff was required to timely file a response pursuant to the Local Rules. *See* E.D. Va. Local Civ. R. 5(C) (“When a party moves to file material under seal because another party has designated that material as confidential, the party designating the material as confidential must file a response to the motion . . . along with a proposed order.”). As of this date, it has not done so.

Moreover, while Defendant generally complied with the requirements set out in Local Civil Rule 5(C), it failed to provide an appropriate proposed order, as Local Civil Rule 5(C) provides: “The proposed order shall recite the findings required by governing case law to support the proposed sealing.” E.D. Va. Local Civ. R. 5(C). However, because Plaintiff’s interests are at stake, and in accordance with Local Civil Rule 5(C), Plaintiff is **ORDERED** to submit for the Court’s consideration by **Monday, November 6, 2017**, a response to Defendant’s Motion to Seal that complies with the requirements of Local Civil Rule 5(C), and shall also submit an appropriate proposed order. In its response, Plaintiff is **ORDERED** to comply specifically with the provisions of the Local Rule, including “[a] statement why sealing is necessary, and why another procedure will not suffice, as well as appropriate evidentiary support for the sealing request. . . .” E.D. Va. Local Civ. R. 5(C)(2). Failure to provide an appropriate proposed order

pursuant to Local Civil Rule 5(C) will result in the denial of Defendant's Motion to Seal (ECF No. 117), and Defendant's Exhibits 1, 2, 6, 7, 8 & 9 will be filed, but not under seal.

The Clerk is **DIRECTED** to forward a copy of this Order to all counsel of record.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Lawrence R. Leonard', written over a horizontal line.

Lawrence R. Leonard  
United States Magistrate Judge

Norfolk, Virginia  
October 30, 2017